

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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RUSSELL,

Plaintiff,

v.

NICHOLAS PAPPAS, et al.,

Defendant.

Case No. 3:13-cv-00241-MMD-VPC

ORDER ADOPTING AND ACCEPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
VALERIE P. COOK

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (dkt. no. 13) ("R&R"). No objection to the R&R has been filed.<sup>1</sup>

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

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<sup>1</sup>The R&R (dkt. no. 13) that was mailed to Plaintiff was returned as undeliverable. (Dkt. no. 14.)

1 of review employed by the district court when reviewing a report and recommendation to  
2 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
4 view that district courts are not required to review "any issue that is not the subject of an  
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
6 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.  
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
8 which no objection was filed).

9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
10 determine whether to adopt Magistrate Judge Cooke's R&R. The R&R recommends that  
11 this action be dismissed with prejudice based upon Plaintiff's failure to cure the  
12 deficiencies in his complaint, and that the jurisdictional defects are likely incurable. After  
13 reviewing the filings, including Plaintiff's latest amended complaint, the Court agrees with  
14 the Magistrate Judge's recommendation.

15 It is therefore ordered, adjudged and decreed that the Report and  
16 Recommendation of Magistrate Judge Valerie P. Cooke (dkt. no. 13) is accepted and  
17 adopted in its entirety.

18 It is ordered that the amended complaint (dkt. no. 11) is dismissed with prejudice.

19 It is further ordered that the Clerk enter judgment and close this case.

20 DATED THIS 5<sup>th</sup> day of November 2015.

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23 MIRANDA M. DU  
24 UNITED STATES DISTRICT JUDGE  
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